IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 29TH NOVEMBER 2006 / 8TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 653 of 1998()

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CRA.145/1992 OF ADDL.SESSIONS COURT, KOTTAYAM
CC.112/1990 of JUDL. MAGISTRATE OF FIRST CLASS, CHANGANACHERRY

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REVISION PETITIONER/APPELLANT/ACCUSED:-

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ANTONY JOSEPH, MALIYEKKAL VEEDU,
VADAKARA KARA, VELLAVOOR VILLAGE.

BY ADV. SRI.K.GOPALAKRISHNA KURUP

RESPONDENT/RESPONDENT/COMPLAINANT:-

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STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR.

BY PUBLIC PROSECUTOR MR.P.RAVINDRA BABU

ADV. SRI.N.RAGHURAJ FOR LEGAL HEIR OF DEFACTO COMPLAINANT

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.Bali,C.J.

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Crl.R.P.No.653 of 1998

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Dated, this the 29th day of November, 2006

**ORDER**

**V.K. Bali, CJ. (Oral):**

Antony Joseph was convicted for the offences under Sections 279 and 304-A of Indian Penal Code and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo simple imprisonment for two months. No separate sentence was awarded under Section 279 of Indian Penal Code, as would be clear from the order dated 30th July, 1992 passed by the Judicial First Class Magistrate, Changanasserry. The appeal carried against this order was dismissed by the learned Additional Sessions Judge, Kottayam, vide order dated 25th April, 1998. It is against these two orders that the revision has been filed.

2. On the last date when the matter came up for hearing, the learned counsel representing the petitioner had urged that the present case may border on a pure and simple accident and rash and negligent driving. He referred to other circumstances of the case and prayed that the petitioner may not be sent to serve a jail term at this distance of time, the occurrence pertaining to the year 1989. On this contentions, this Court issued notice to the legal heirs of the defacto complainant. Chudalaiandi, the son of deceased Velu is present in Court. He is prepared to give a quietus to the issue if a compensation

of Rs.25,000/- is paid to him. This Court has gone through the issue and is of the view that a compensation of Rs.35,000/- at least must be paid. The suggestion of the Court is acceptable to the petitioner, who is present in person.

3. Thus, while maintaining the order of conviction against the petitioner, the petitioner is sentenced to pay a compensation of Rs.35,000/- (Rupees thirty five thousand only) considering the fact that the petitioner has suffered the agony of protracted trial spanned over a period of about 17 years. An amount of Rs.25,000/- (Rupees twenty five thousand only) has been paid in cash to Chudalaiandi, the legal heir of the defacto complainant and the remaining amount of Rs.10,000/- (Rupees ten thousand only) shall be paid to him through his counsel by Demand Draft within fifteen days from today.

The Criminal Revision Petition is disposed of as indicated above.

V.K.Bali
Chief Justice

vku/-